

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
 Plaintiff)
)
 v.) 03-CR-30033-MAP
)
GREGORY THOMAS,)
 Defendant)

MEMORANDUM AND ORDER REGARDING
MOTION FOR CERTIFICATE OF APPEALABILITY
(Dkt. No. 111)

October 13, 2009

PONSOR, D.J.

On February 25, 2005, Defendant, a career offender, received a sentence of 262 months custody of the Bureau of Prisons, following his convictions on May 21, 2004 for distribution of cocaine base on two occasions, one involving five or more grams.

Defendant filed a petition pursuant to 28 U.S.C. § 2255, raising multiple issues. The court addressed all these issues except two in a memorandum dated April 10, 2008 (Dkt. No. 9 in 07-cv-30103-MAP).

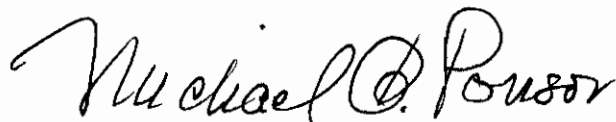
Defendant offered no support for his first claim related to the jury, and on February 10, 2009, following an

evidentiary hearing, the court rejected Defendant's alternate claim that his rights were violated when his attorney failed to inform him of his right to make an independent decision about whether he wanted to testify at trial. See Owens v. United States, 483 F.3d 48 (1st Cir. 2007).

Defendant has now filed a Motion for Certificate of Appealability. Having reviewed the history of this case, the court must conclude that there are no issues about which reasonable jurists might disagree warranting issuance of a certificate of appealability. Put differently, Defendant has failed to make any showing of a denial of a Constitutional right or point to any issues that raise questions which deserve encouragement to proceed further on appeal.

Accordingly, the Motion for Certificate of Appealability (Dkt No. 111) is hereby DENIED.

It is So Ordered.

A handwritten signature in black ink, reading "Michael A. Ponsor". The signature is fluid and cursive, with the first name "Michael" and last name "Ponsor" clearly legible. The signature is positioned above a horizontal line.

MICHAEL A. PONSOR
U. S. District Judge